

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:12CV751

MATTHEW ALAN JENKINS,	)	
	)	
Appellant,	)	
	)	
Vs.	)	ORDER
	)	
JAMES T. WARD, SR., Trustee,	)	
	)	
Appellee.	)	
_____	)	

This matter is before the Court upon the Appellant's Motion for Costs pursuant to Rule 8014 of the Federal Rules of Bankruptcy Procedure. Appellant seeks costs in the amount of \$366.59 in appealing a ruling of the bankruptcy court granting the Trustee's motion to surcharge Debtor's exemptions. The bankruptcy court's ruling was reversed by this Court on appeal.

Rule 8014 allows costs to be taxed against the losing party on appeal, but leaves the court wide discretion in determining whether to award the costs. In its discretion, the Court declines to award costs herein. As the Court stated in its Order of March 14, 2014 reversing the bankruptcy court, at the time the bankruptcy court issued its decision there was a split in the circuits as to whether exemption surcharges could be employed in appropriate circumstances. The Supreme Court resolved that split in the case of *Law v. Siegel*, 2014 WL 813702 (U.S. March 4, 2014) by holding that bankruptcy courts exceed their authority under 11 U.S.C. §105(a) and their inherent powers by surcharging exempt property in response to a debtor's misconduct. This Court reversed in light of *In re Law*. The appeal presented a complex legal issue and ample case law supported the bankruptcy court's decision at the time it was made. Moreover, the surcharge order itself stemmed from the Debtor's refusal to cooperate with the Trustee in his efforts to administer the estate. Under these circumstances the Court declines to allow an award of costs to the Appellant.

IT IS THEREFORE ORDERED that Appellant's Motion for Costs is hereby DENIED.

Signed: May 27, 2014



Graham C. Mullen  
United States District Judge

